

FEB 16 1994

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1993

No. 92-1384

BARCLAYS BANK PLC,
Petitioner,

v.

FRANCHISE TAX BOARD,
An Agency Of The State Of California,
Respondent.

No. 92-1839

COLGATE-PALMOLIVE COMPANY,
Petitioner,

v.

FRANCHISE TAX BOARD,
An Agency Of The State Of California,
Respondent.

On Writ of Certiorari To The
Court Of Appeal Of The State Of California
In And For The Third Appellate District

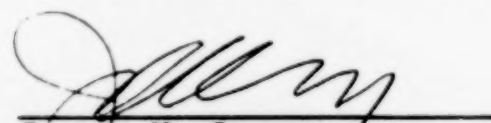
**SUPPLEMENTAL BRIEF OF
PETITIONERS' IN OPPOSITION TO CALIFORNIA LEGISLATURE'S
MOTION FOR LEAVE TO FILE BRIEF AMICUS CURIAE**

5/14/94

On February 16, 1993 Petitioner Barclays Bank PLC ("Barclays") received a copy of a letter from the Chairman of the Joint Committee on Rules dated December 20, 1993 purportedly authorizing the Legislative Counsel to file a brief in these cases on behalf of the California Legislature.^{1/} Appendix A. However, the Chairman of the Joint Rules Committee may not act on behalf of the committee without the authorization by two thirds of the committee membership at an open and public meeting. Cal. Gov't Code §§ 9027, 9028, 9917 (West 1992). No evidence of such authorization was produced. The type of authorization specifically required under Section 10246 of the California Government Code is not before this Court. Thus, there is still no basis for this Court to conclude that the brief filed with movant's motion is an authorized representation of the views of the California Legislature.

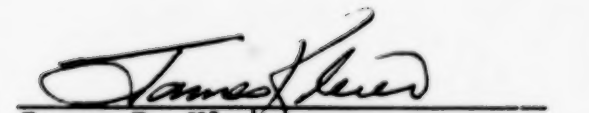
Barclays and Colgate-Palmolive Company ("Colgate") hereby renew their opposition to the California Legislature's Motion for Leave to File Brief Amicus Curiae.

Respectfully submitted,



Joanne M. Garvey
Counsel of Record for
Barclays Bank PLC
HELLER, EHRMAN, WHITE & MCAULIFFE
333 Bush Street
San Francisco, CA 94104-2878
(415) 772-6000

^{1/} There are no changes to the Rule 29.1 Statements in the above referenced consolidated case since the Briefs of the Petitioners were filed with this Court.



James P. Kleier
Counsel of Record for
Colgate-Palmolive Company
MORRISON & FOERSTER
345 California Street
San Francisco, CA 94104
(415) 677-7000

Legislative Counsel of California

BION M. GREGORY

Jack I. Horton
Chief Deputy
James L. Ashford
Harvey J. Foster
John T. Studabaker
Daniel A. Wetteman

David D. Alves
John A. Corzine
C. David Dickerson
Robert Cullen Dully
Robert D. Gronke
James A. Marzale
Robert G. Miller
Vern L. Oliver
Tracy O. Powell II
Marguerite Roth
Michael H. Upson
Christopher Zerkle
Principal Deputies

State Capitol, Suite 3021
Sacramento, CA 95814-4996
(916) 445-3057
Telecopier (916) 322-0769

Sacramento, California
February 15, 1994

Heller, Ehrman, White & McAuliffe
Attorneys
333 Bush Street
San Francisco, CA 94104-2878

Attention: Joanne M. Garvey

Barclays Bank PLC v. Franchise Tax Board;
Colgate-Palmolive v. Franchise Tax Board

Dear Ms. Garvey:

Pursuant to the request in your letter dated February 11, 1994, to Mr. Heir, we have enclosed a copy of the letter memorializing the authorization of the Joint Committee on Rules for this office to represent the Legislature, as amicus curiae, in the above-referenced cases.

Very truly yours,

Bion M. Gregory
Legislative Counsel

Jack I. Horton
Chief Deputy

JIH:bjs
Enclosure

Gerald Ross Adams
Marin L. Anderson
Paul Antle
Charles C. Asbill
Joe J. Ayala
Renee P. Benise
Lara K. Berman
Diane F. Boyer-Vine
Ann M. Burrasso
Eileen J. Burton
Gwynne L. Byrd
Suzanne Culbertson
Emilia Culler
Ben E. Dase
Jeffrey A. DeLand
Clinton J. deWitt
Frances S. Dorbin
Maureen S. Dunn
Sharon R. Fisher
Clay Fuller
Patricia R. Gates
Debra Zedich Gibbons
Shira K. Gilbert
Alvin D. Gross
Maria Hilda Hanke
Jana T. Harrington
Badev S. Heir
Thomas R. Heuer
Ruben L. Iniguez
Lori Ann Joseph
David B. Judson
Michael R. Kelly

Michael J. Karsen
L. Douglas Kinney
Eva B. Krottinger
Audrey LaBrie
Felicie A. Lee
Victoria K. Lewis
Dana G. Lim
Jennifer Loomis
Romulo I. Lopez
Kirk S. Love
Marlene Mann
Francisco A. Martin
Sally B. McGough
Peter Menzies
Michael M. Menesin
John A. Mogar
Abel Munoz
Donna L. Neville
Sharon Rasky
Michael B. Salerno
Keith T. Schulz
William K. Stark
Jessica L. Steere
Ellen Sward
Mark Franklin Terry
Jeff Thom
Richard Thompson
Elizabeth M. Wan
Richard B. Westberg
Thomas D. Wheeler
Jack G. Zorman

Deputies

ASSEMBLY MEMBERS
DEDE ALPERT
WILLIE L. BROWN, JR.
JAMES BRULTE
JOHN BURTON
THOMAS HANNIGAN
TRICE HARVEY
ROSS JOHNSON
BARBARA LEE
RICHARD MOUNTJOY
WILLARD MURRAY
PATRICK NOLAN
RICHARD POLANCO

California Legislature

Joint Committee on Rules

JOHN BURTON

CHAIRMAN

WILLIAM A. CRAVEN

VICE CHAIR

SENATE MEMBERS
RUBEN AYALA
ROBERT BEVERLY
WILLIAM CRAVEN
RALPH DALLS
LEROY GREENE
HENRY HELLO
NICHOLAS PETRIS
DAVID ROBERTI
NEWTON RUSSELL
DON ROGERS
CATHIE WRIGHT
VACANCY

Sacramento, California
December 20, 1993

Mr. Bion M. Gregory
Legislative Counsel
State Capitol, Suite 3021
Sacramento, California 95814-4996

Dear Mr. Gregory:

Pursuant to Section 10246 of the Government Code, your office is hereby authorized to represent the Legislature, as amicus curiae, in the cases of Barclays Bank PLC v. Franchise Tax Board of California (No. 92-1384) and Colgate-Palmolive Co. v. Franchise Tax Board of California (No. 92-1839) before the United States Supreme Court. The purpose of this representation will be to advise the Court of the development of California's unitary tax law in response to communications from the federal government and the United Kingdom.

Sincerely,

JOHN L. BURTON
Chairman, Joint Committee on Rules

cc:

Honorable Willie L. Brown, Jr.,
Speaker of the Assembly
Honorable David Roberti,
President pro Tempore of the Senate
Honorable James L. Brulte
Honorable Ken Maddy